

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF MISSISSIPPI
SOUTHERN DIVISION

PHILLIP PECORARO AND BETTY PECORARO

PLAINTIFFS

V.

CIVIL ACTION NO. 1:07cv777-LTS-RHW

STATE FARM FIRE AND CASUALTY COMPANY
AND JOHN DOES 1 THROUGH 10

DEFENDANTS

ORDER

This Court entered an [53] Order requiring Plaintiff Betty Pecoraro to personally attend a mediation held on August 15, 2008. The Court commented on Plaintiffs' counsel's inexcusable conduct, and counsel apparently believed that by waiting so long the Court would have no choice but to grant the relief. That was not the case, and the Court's [53] Order speaks for itself.

Counsel is also apparently willing to risk a finding of contempt for what the Court views as a blatant violation of its order, which reminded counsel "that failure in any regard to comply with the [47] Order for Mediation and any related matters shall result in the imposition of sanctions." This is not the first time the Court has had to take this action, and the posting on the Court's website of one such order early in the mediation process was intended to show how serious it is about the management of the Hurricane Katrina docket.

It is important to keep in mind that the [47] Order for Mediation allowed for the option of private mediation, under the terms of the order. There is much more flexibility in the manner in which the mediation is held under that circumstance. Counsel chose not to pursue that alternative, at a time when his clients' situation was no different than it is now.

The Court hopes that this or any other conduct contrary to its orders will not be repeated, but will not hesitate to find Plaintiffs' counsel in contempt if anything of this nature occurs again. Sanctions against Plaintiffs' counsel only are appropriate under the facts presented here.

Accordingly, **IT IS ORDERED:**

Attorney Donald Jason Embry shall send a personal check in the amount of \$200.00 payable to the American Arbitration Association at the following address:

American Arbitration Association
Central Case Management Center
13455 Noel Rd., Suite 1750
Dallas, TX 75240-6620
ATTN: Lesley Barton

Attorney Donald Jason Embry shall send a personal check in the amount of \$400.00 payable to Richard T. Bennett at the following address:

Richard T. Bennett, Esq.
Bennett Lotterhos Sulser & Wilson, P.A.
Post Office Box 98
Jackson, MS 39205-0098

Attorney Donald Jason Embry shall send these personal checks no later than August 25, 2008, and shall provide written confirmation to the Court of payment. No part of this payment shall come from the proceeds of any settlement received by Plaintiffs. Defendant shall be reimbursed for any fees it has paid to the American Arbitration Association and/or the mediator in connection with the mediation of this cause of action.

SO ORDERED this the 18th day of August, 2008.

s/ L. T. Senter, Jr.
L. T. SENTER, JR.
SENIOR JUDGE